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3 UNITED STATES DISTRICT COURT  
4 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
5 OAKLAND DIVISION  
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7 JOSELITO FABIONAR, individuals, on  
8 behalf of themselves and all others similarly  
9 situated,

10 Plaintiffs,

11 vs.

12 FIRST FEDERAL BANK OF CALIFORNIA,  
13 as the Original Lender; SEASIDE  
14 FINANCIAL CORPORATION, as  
15 the Original Trustee; COMMONWEALTH  
16 LAND TITLE, Title Company; ONE WEST  
17 BANK, as Sub Servicer; AURORA LOAN  
18 SERVICES LLC, as the PSA Master  
19 Servicer; LEHMAN BROTHERS  
20 HOLDINGS INC. PSA Sponsor and Seller;  
21 STRUCTURED ASSET SECURITIES  
22 CORPORATION, as PSA Depositor;  
23 CITIBANK, N.A., as PSA Trustee;  
24 LASALLE BANK, N.A. U.S. BANK, N.A.  
25 WELLS FARGO BANK, N.A. PSA  
26 Custodian; LEHMAN XS TRUST, SERIES  
27 2005-3, as the PSA Trust Issuing Entity; TD  
28 SERVICE COMPANY, as the Foreclosing  
Trustee; and DOES 1 THROUGH 100,  
INCLUSIVE

Defendants.

Case No: C 12-0991 SBA

**ORDER**

23 On February 27, 2012, Plaintiff Joselito Fabionar ("Plaintiff"), proceeding pro se,  
24 brought the instant action against Defendants alleging various claims arising out of a home  
25 loan and the initiation of foreclosure proceedings. See Compl., Dkt. 1. The parties are  
26 presently before the Court on Defendant Wells Fargo Bank, N.A.'s ("Wells Fargo") motion  
27 to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure, which was filed on  
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1 April 17, 2012. Dkt. 3. Also before the Court is Defendant Aurora Loan Service, LLC's  
2 ("Aurora") motion to dismiss under Rule 12(b)(6), which was filed on May 7, 2012. Dkt.  
3 13. Under Local Rule 7-3, a party must file an opposition or statement of non-opposition to  
4 a motion no later than fourteen days (14) after the motion is filed. See N.D. Cal. Civ. L.R.  
5 7-3(a), (b).<sup>1</sup> This Court's Standing Orders specifically warn that "failure of the opposing  
6 party to file a memorandum of points and authorities in opposition to any motion shall  
7 constitute a consent to the granting of the motion." Civil Standing Orders at 5, Dkt. 21. To  
8 date, Plaintiff has not filed a response to Wells Fargo's or Aurora's motion to dismiss in  
9 violation of Civil Local Rule 7-3.

10 The failure to file an opposition to a motion to dismiss in the manner prescribed by  
11 the Court's Local Rules is a ground for dismissal. Ghazali v. Moran, 46 F.3d 52, 53 (9th  
12 Cir. 1995) (per curiam) (failure to file an opposition to a motion to dismiss in violation of a  
13 local rule is a proper ground to grant the motion). Here, although Plaintiff's failure to file  
14 an opposition to either of the motions to dismiss is a proper ground to grant the motions, the  
15 Court will afford Plaintiff the opportunity to respond to the motions by no later than ten  
16 (10) days from the date this Order is filed. The Court, however, warns Plaintiff that the  
17 failure to comply with this deadline will result in dismissal of this action with prejudice  
18 under Rule 41(b) of the Federal Rules of Civil Procedure. Ferdik v. Bonzelet, 963 F.2d  
19 1258, 1260 (9th Cir. 1992) (pursuant to Rule 41(b), a district court may dismiss an action  
20 for failure to comply with any order of the court).

21 Accordingly, IT IS HEREBY ORDERED THAT:

22 1. Plaintiff shall file a response to Wells Fargo's and Aurora's motion to dismiss  
23 by no later than ten (10) days from the date this Order is filed. In the event Plaintiff fails to  
24 timely comply with this Order, this action will be dismissed with prejudice under Rule  
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27 <sup>1</sup> The deadline to file an opposition is extended by 3 days if the motion was not filed  
28 and served through the Court's Electronic Case Filing ("ECF") system and was served  
pursuant to Federal Rule of Civil Procedure 5(b)(2)(C), (D), (E) or (F). Civ. L.R. 7-3(a).

1 41(b). Wells Fargo and Aurora shall notify the Court if Plaintiff fails to comply with this  
2 Order.

3 IT IS SO ORDERED

4 Dated: 7/10/12

  
5 SAUNDRA BROWN ARMSTRONG  
6 United States District Judge  
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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 JOSELITO FABIONAR,

5 Plaintiff,

6 v.

7 FIRST FEDERAL BANK OF CALIFORNIA et  
8 al,

9 Defendant.  
10 \_\_\_\_\_/

11 Case Number: CV12-00991 SBA

12 **CERTIFICATE OF SERVICE**  
13

14 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
15 Court, Northern District of California.

16 That on July 12, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said  
17 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing  
18 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
19 located in the Clerk's office.

20 Joselito Fabionar  
21 27624 Baldwin Street  
22 Hayward, CA 94544  
23

24 Dated: July 12, 2012

25 Richard W. Wieking, Clerk

26 By: Lisa Clark, Deputy Clerk  
27  
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